



City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740

Telephone: (508) 979.1500 Facsimile: (508) 979.1575

PATRICK J. SULLIVAN

DIRECTOR

STAFF REPORT

PLANNING BOARD MEETING

May 10, 2017

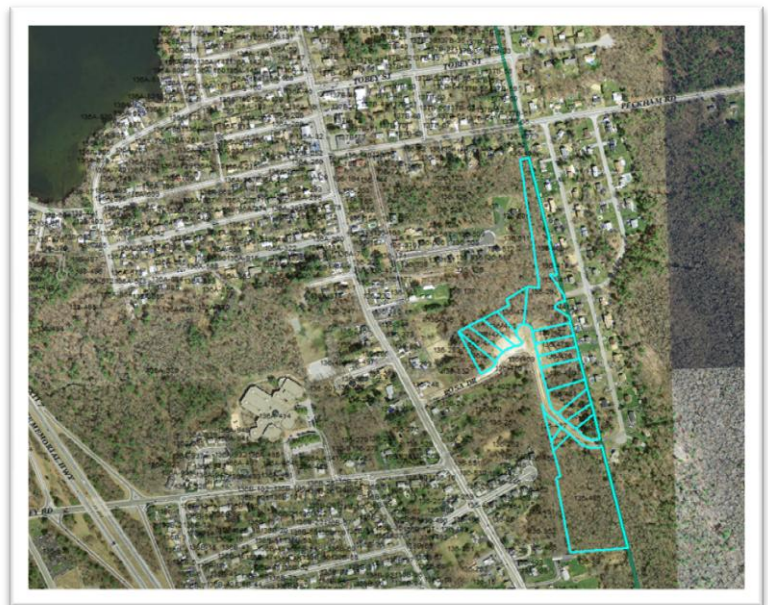
Subdivision: The Settlement

Applicant's

Agent: SITEC, Inc.
449 Faunce Corner Road
Dartmouth, MA 02747

Owners: Lots 1, 3, 5, 7, 9, 11, 13, 15, 17
& 19
DPM Development Corp.
70 Lambeth Street
New Bedford, MA 02745

Lots 2, 4, 6, 8, 10, 12, 14, 16 & 18
Moniz Properties, Inc.
70 Lambeth Street
New Bedford, MA 02745



Overview

DPM Development Corp & Moniz Properties, Inc., has submitted to the City of New Bedford Planning Board a request to release Lots 1-19 from covenant restrictions as specified in the Covenant recorded in Bristol County (S.D.) Registry of Deeds at Book 7967, Page 116 on January 20, 2006 for the definitive Subdivision Plan of The Settlement in New Bedford, MA prepared for DPM Development, dated March 16, 2004 as revised through September 27, 2005, by SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747 (formerly located at 12 Welby Road, New Bedford, MA 02745) and by certificate recorded in Bristol County (S.D.) Registry of Deeds at Book 7967, Page 115.

Background

This subdivision dates from 2003 and was approved by reason of failure of the Planning Board to act within the prescribed time. The Settlement subdivision is located in the far north of New Bedford off Acushnet Avenue, south of Peckham Road and shares a municipal boundary border with Acushnet, MA where a distinct phase of this subdivision is recognized as Forestdale.

- A Preliminary subdivision Plan was filed and date stamped by the City Clerk on December 16, 2003.
- Public hearing for the preliminary plan was held on January 21, 2004.

- Definitive Subdivision plans were date stamped and filed in the office of the City Clerk on May 24, 2004.
- The first public hearing held June 16, 2004 was continued to time to be determined at a later date so the applicant's agent could gather data on the drainage shortcomings and reason for the delayed acceptance by the Town of Acushnet for Blueberry Drive.
- The Settlement case was advertised in the Standard-Times and is found on the November 17, 2004 agenda and minutes.
- At the November 17, 2004 meeting the case was continued to a time to be determined.
- A subsequent Notice was sent to abutters to inform parties of the September 14, 2005 hearing for the presentation of the developer's *revised definitive plan*.
- The September hearing was continued, according to minutes of the meeting, to October 12, 2005 in order to provide the planning department time to develop a list of conditions for application approval. (Research does not find a list of conditions.)
- Research finds no minutes for an October 12, 2005 meeting of the PB. Furthermore, the October meeting was held on the 20th of that month; the October 20th meeting minutes do not reflect discussion of The Settlement.
- Research finds Certification from City Clerk Rita Arruda dated January 17, 2006 (Deed Book 7967, Page 115) stating the Form C Definitive Plan for The Settlement, submitted August 22, 2005 had been approved due to failure of the Planning Board to act and approval resulting from such failure has become final.
- Blueberry Drive & Elderberry Drive were accepted in 2012 and recorded at deed Book 10284, Page 326 by Town of Acushnet, where the subdivision is known as Forestdale.

Review Comments

Case submittal documents were distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department offices.

The Department of Public Infrastructure is preparing a Cost Estimate for infrastructure completion for the Planning Board's review and information. Delivery of the estimate is forthcoming.

The Health Department reports no issues with the release of covenant restrictions.

The Conservation Commission notes: *This subdivision was approved under a Superseding Order of Conditions issued by the MADEP (SE49-474). The Superseding Order of Conditions has been renewed and is still valid. Individual house lots located in the Buffer Zone will require an application with the Conservation Commission.*

The Treasure's Department for the City of New Bedford has informed the Planning Division via email correspondence that as of May 1, 2017 taxes have been paid and no liens are attached to the land.

No additional comments have been received by the Planning Division.

Staff Recommendation

- ☐ Staff recommends the Planning Board approve the request by developer for release of Lots 1-19 from recorded covenant with the stipulation and understanding that the developer shall provide sufficient security in the form of cash or other performance guarantee determined by the city of New Bedford to be an acceptable provision for completion of the construction of ways and the installation of municipal services.
- ☐ Staff recommends the cost estimate and contingency as prepared by the Department of Public Infrastructure be favorably considered and approved by the Planning Board as sufficient in opinion to

secure the performance of the construction of ways and installation of municipal services required for lots shown on the plan.

- ☐ Staff recommends the Planning Board stipulate the time for completion of all obligations, conditions, agreements, terms and provisions under Subdivision Control Law, City of New Bedford Code of Ordinances, and City of New Bedford Subdivision Rules & Regulations be no later than May 10, 2019.
- ☐ Staff recommends the Planning Board stipulate that the developer comply with the conditions of the Memorandum from the Department of Public Infrastructure-Engineering Division dated September 8, 2005 as a condition of release from Covenant recorded in Bristol County (S.D) Registry of Deeds Book 7967, Page 116.

Attachments:

1. Letter of Request by Applicant's Agent for Release from Covenant with Agent's Cost Estimate
2. Subdivision Plan – Bristol County (S.D) Registry of Deeds Plan Book 157, Page 97
3. Covenant - Bristol County (S.D) Registry of Deeds Book 7967, Page 116
4. Certificate of Approval by Failure of Planning Board to Act - Bristol County (S.D) Registry of Deeds Book 7967, Page 115
5. Memorandum from the Department of Public Infrastructure and Engineering Dated September 8, 2005
6. Release of Covenant
7. Performance Bond Secured by Cash Deposit



SITEC, Inc.
449 Faunce Corner Road
Dartmouth, MA 02747
Tel. (508) 998-2125 FAX (508) 998-7554

Unit C
769 Plain Street
Marshfield, MA 02050
Tel. (781) 319-0100 FAX (781) 834-4783

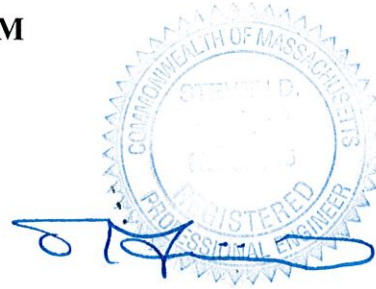
MEMORANDUM

TO: PLANNING BOARD
CITY OF NEW BEDFORD

FROM: STEVEN D. GIOIOSA, P.E.

DATE: APRIL 7, 2017

**SUBJECT: DEFINITIVE SUBDIVISION OF THE SETTLEMENT
ACUSHNET AVENUE**



As required, we have completed a field inspection of the road and infrastructure that has been completed for the Definitive Subdivision known as The Settlement located off Acushnet Avenue in the North End. The subdivision consists of two roadways, Rosa Drive and Seth Daniel Drive with 19 single family house lots. The developer of this project is hereby requesting that Lots 1 – 19 be released from the Covenant that was recorded with the Definitive Subdivision.

A \$400 filing fee is attached and we have requested a Certified Abutters List for this request.

Based on our inspection we offer the following summary of work completed to date and an estimate for the remaining tasks.

WORK COMPLETED TO DATE

1. Site Clearing and Grading
2. Detention Pond/Drainage System Construction
3. Water System Installation
4. Sanitary Sewer System Installation
5. Wetland Replication Areas
6. Roadway Gravel and Binder
7. Rough Grading of Shoulders

PLANNING
APR 13 2017
DEPARTMENT

WORK REMAINING TO BE COMPLETED

The following tasks remain to be completed for this road/infrastructure components together with cost estimate.

1.	Adjust structures to finish grade.....	\$ 4,000.00
2.	Construct Detention Pond Spillway.....	\$ 500.00
3.	Install Street Lights.....	\$ 31,000.00
4.	Electrical System Completion.....	\$ 10,000.00
5.	Curbing.....	\$ 60,200.00
6.	Sidewalks.....	\$ 44,000.00
7.	Final Paving.....	\$ 50,025.00
8.	Street Trees.....	\$ 9,100.00
9.	Loam & Seed Right-of-Way.....	\$ 5,000.00
10.	Set Bounds.....	\$ 7,500.00
11.	As-Built Plans.....	\$ 6,500.00
12.	General Cleanup.....	\$ 1,000.00
		<u>\$228,825.00</u>

At this time we respectfully request your consideration of this request. Please feel free to contact me should you require any additional information.

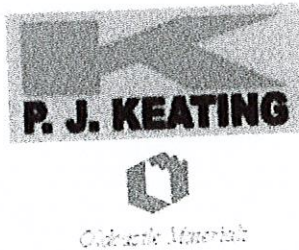
Attachment: Miscellaneous Cost Estimates
Filing Fee - \$400.00

cc: DPM Development

PLANNING
APR 13 2017
DEPARTMENT

The logo for SDIV Companies LLC features a blue hard hat icon above the letters "SDIV" in a large, bold, sans-serif font. Below "SDIV" is the text "COMPANIES LLC" in a smaller, all-caps, sans-serif font.

04/13/2017



72 South Main St.
Acushnet, MA 02743

Main: (508) 992-3542
Fax: (508) 994-9503
www.Pjkeating.com

To: DPM Development	Contact: Dan
Address: 70 Lambeth Street	Phone: (508) 294-7974
New Bedford, MA 02745	Fax:
Project Name: The Settlement, New Bedford, Ma	Bid Number:
Project Location: The Settlement, New Bedford, MA	Bid Date: 10/7/2016

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
203.000	Fine Grade And Compact Under Paved Areas	6,900.00	SY	\$1.10	\$7,590.00
401.000	Binder Paving (2 1/2" Depth)	6,900.00	SY	\$8.80	\$60,720.00
406.000	Surface Paving (1.5" Depth Inc Tack Coat)	6,900.00	SY	\$7.25	\$50,025.00

Total Bid Price: \$118,335.00

Notes:

- PJ Keating reserves the right to equitably adjust the contract pricing based on changes to the current items and or scope of work
- ESCALATION CLAUSE:** Bituminous Concrete prices quoted are based on the latest posted MassDOT price (NEW METHOD) on liquid asphalt. The base price for this quote is **\$347.50** per ton. Any change in the price of liquid asphalt will require an extra charge (or credit) of \$0.055 per ton for every \$1.00 per ton increase (or decrease) in the price of liquid asphalt. *This Price Adjustment will be paid only if the variance from the Base Price is 5% or more for a monthly period. The complete adjustment will be paid in all cases with no deduction of the 5% from either upward or downward adjustments.
- Price is based upon 1 mobilization binder 2016, 1 mobilization for top 2017 additional mobs will be charged at the rate of \$6,500 per mob.
- All prep for paving by others, other than stated herein.
- P.J. Keating Co. cannot guarantee drainage in areas with a design slope of less than 2 %.
- Completion date of this contract shall be during the 2017 season
- This proposal is valid for 15 days.
- All staking, layout, and establishment of grades to be the responsibility of others. We will accept no responsibility for improper engineering and/or areas where no grades were indicated before commencement of work.
- All quantities are estimates only. Billing quantities will be determined by field placement and/or measurement.
- Prices include the applicable Massachusetts sales tax on materials related to be used on this project.
- All traffic/safety control and police details by others.
- Any work after November 15th will require a signed weather release

Payment Terms:

Net Cash 30 days upon receipt of invoice, no retainage to be held. Subject to credit approval.

<p>ACCEPTED:</p> <p>The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p>Buyer: DANIEL MONIZ DPM DEVELOPMENT</p> <p>Signature: <i>[Signature]</i></p> <p>Date of Acceptance: 10-28-16</p>	<p>CONFIRMED:</p> <p>PJ Keating Acushnet</p> <p>Authorized Signature: _____</p> <p>Estimator: Dave Anderson 508-992-3542 Danderson@pjkeating.com</p>
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Estimate

Date	Estimate #
3/20/2017	17-371



Fletcher Granite Curb LLC
535 Groton Road
Westford, MA 01886

Name / Address
DPM Development Inc 70 Lambeth St New Bedford, MA 02745

Project				
The Settlement				
Description	Qty	U/M	Rate	Total
618S (6" x 18" (VA4) Straight)	2,550	LF	15.45	39,397.50T
618R10-CC (6' x 18' Radius 10 Concave)	180	LF	20.55	3,699.00T
618R10 (6" x 18" Radius 10)	180	LF	20.55	3,699.00T
618R8 (6" x 18" Radius 8)	1	LF	23.10	23.10T
618R4 (6" x 18" Radius 4)	1	LF	30.80	30.80T
618R2 (6" x 18" Radius 2)	1	LF	34.65	34.65T
618T-3L (6' x 18' Transition 3' Left)	69	LF	18.45	1,273.05T
618T-3R (6' x 18' Transition 3' Right)	69	LF	18.45	1,273.05T
618R10T (6" x 18" Radius 10 Transition)	12	LF	23.55	282.60T
618R8T (6" x 18" Radius 8 Transition)	1	LF	26.10	26.10T
618R4T (6" x 18" Radius 4 Transition)	1	LF	33.80	33.80T
618R2T (6" x 18" Radius 2 Transition)	1	LF	37.65	37.65T
INSTMA (6" x 18" MA Inlet - 6' (#83))	10	ea	205.45	2,054.50T
INSTMAR10 (6" x 18" MA Inlet Radius 10 - 6')	1	ea	277.35	277.35T
Dunnage 3" x 3" (Dunnage to be determined at the time of shipping (Refundable))	1	ea	2.50	2.50T
Delivery	9	ea	525.00	4,725.00
Subtotal				\$56,869.65
Sales Tax (6.25%)				\$3,259.04
Total				\$60,128.69

04/13/2017

MN
Mel Northey Co. Inc.
 303 Gulf Bank
 Houston, TX 77037
 1-800-828-0302
 Fax 281-445-7456

Name DANIEL
 Phone 508-294-7974
 Fax:

Quote Date
 March 03, 2017
Quote
 Valid for 90 Days

Quote # 88916

Sold by Mel Northey

Terms 25% down/75% before

Promise Date

Ship Via ABF

DPM DEVELOPMENT
 70 LAMBETH ST

Office # 508-995-4342

NEW BEDFORD, MA 02745

Email DANIELPMONIZ@GMAIL.COM

PLEASE ALLOW 6 WEEKS FOR DELIVERY

FREE FREIGHT (\$3,323) AND 5% DISCOUNT AS WELL

QTY	Description	Size	Color	Unit Price	Total Price
31	8571 - Washington Premier	12	Black	\$949.00	\$29,419.00
31	LED 45w - 45w LED		-	\$95.00	\$2,945.00
				Total	\$32,364.00

Volume discounts and reduced
 freight only apply to orders of
 \$10,000 or more

Discount Percent	5%
Discount Amount	(\$1,618.20)
Discounted Total	\$30,745.80
Freight Charge	\$0.00
Taxable <input type="checkbox"/> Tax	\$0.00
Quote Total	\$30,745.80

Payment Required In Advance To Process Order

50% Deposit Required to Begin Order and 50% on Day Of Shipment

DAMAGED/LOST MERCHANDISE

All merchandise should be examined for damages at the time of delivery. When a loss or damage occurs, the carrier is held responsible. Therefore, all damage/loss claims should be noted to the carrier and to Mel Northey Co., Inc. within 48 hours of receipt of merchandise. PLEASE FORWARD PICTURES OF DAMAGE TO TPRATER@MELNORTHEY.COM

PLEASE DO NOT REFUSE TO ACCEPT THE SHIPMENT

This will cause you to incur unnecessary shipping expenses in returning damaged merchandise and will not properly document the carrier fault. All damage claims will be filed by Mel Northey Co., Inc. in order to expedite the shipment of new merchandise to you. Failure to notify Carrier and Mel Northey Co., Inc. within 48 hours can result in loss of rights for claim.

Freight carriers Do NOT Unload.

If residential or construction delivery site additional Charges May Apply.

Specification and installation instructions can be found at: www.melnorthey.com

04/13/2017

Sylvan Nursery, Inc.

1028 Horseneck Road
Westport, MA 02790
508-636-4573 Fax 508-636-3397

Bid/Quote

Prepared By
Joanne Silveira

March 22, 2017

D P M Development Inc

New Bedford, MA 02745

Contact Dan

1-508-995-4342 Fax For Bids

Project or Ship to-

The Settlement Property
New Bedford Ma

QUAN.	SKU	BOTANICAL NAME	SIZE	COST	EXT.COST
8	A210KC	ONLY 13 AVAIL Acer rubrum 'Franksred'	2.5/3"cal	305.00	2,440.00
8	G080KC	39 AVAILABLE Gleditsia tr. inermis 'Skycole'	2.5/3"cal	317.00	2,536.00
7	F010KA	SUB SIZE 15 AVAILABLE Fagus grandifolia	1.5/2"cal	195.00	1,365.00
7	T261KC	6 HERE 5 MORE EXPECTED 11 TOTAL Tilia tomentosa 'Sterling'	2.5/3"cal	315.00	2,205.00

30 Total # of Items

Approximate
Date

Material Cost

\$8,546.00

(To be determined) Tax

\$534.13

Delivery Charge to be determined

Total is approximate until order is pulled and substitutions
are determined.

Plants subject to availability at time order is placed.

Approximate Total

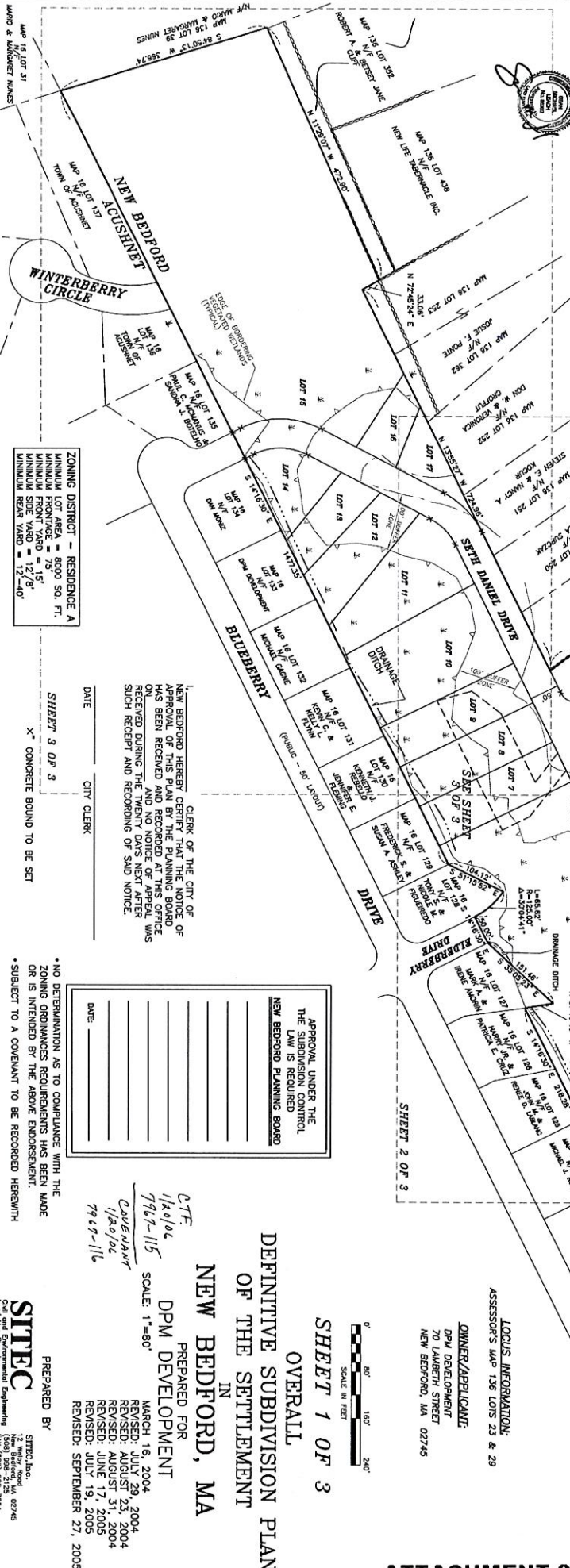
\$9,080.13

FOR REGISTRY USE ONLY

I HEREBY CERTIFY THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

DATE 1/6/05

DATE 11/6/05



ZONING DISTRICT - RESIDENCE A
MINIMUM LOT AREA = 8000 SQ. FT.
MINIMUM FRONTAGE = 75'
MINIMUM FRONT YARD = 15'
MINIMUM SIDE YARD = 12'/8'
MINIMUM REAR YARD = 12'-40'

SHEET 3 OF 3

X" CONCRETE BOUND TO BE SET

DATE _____ CITY CLERK _____

I, _____ CLERK OF THE CITY OF
NEW BEDFORD HEREBY CERTIFY THAT THE NOTICE OF
APPROVAL OF THIS PLAN BY THE PLANNING BOARD
HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE
ON _____ AND NO NOTICE OF APPEAL WAS
RECEIVED DURING THE TWENTY DAYS NEXT AFTER
SUCH RECEIPT AND RECORDING OF SAID NOTICE.

- NO DETERMINATION AS TO COMPLIANCE WITH THE ZONING ORDINANCES REQUIREMENTS HAS BEEN MADE OR IS INTENDED BY THE ABOVE ENDORSEMENT.
- SUBJECT TO A COVENANT TO BE RECORDED HEREWITH.

APPROVAL UNDER THE
THE SUBDIVISION CONTROL
LAW IS REQUIRED

NEW BEDFORD PLANNING BOARD

DATE: _____

CTF.
1/20/06
7967-115

COVENANT
1/20/06
7967-116

PREPARED BY

SITEC

SITEC, Inc.
12 Twitty Road
New Bedford, MA 02741
(508) 998-2125
FAX (508) 998-7554

Civil and Environmental Engineering
Land Use Planning

MARCH 16, 2004
REVISED: JULY 29, 2004
REVISED: AUGUST 23, 2004
REVISED: AUGUST 31, 2004
REVISED: JUNE 17, 2005
REVISED: JULY 19, 2005
REVISED: SEPTEMBER 27, 2009

OWNER/APPLICANT:
DPM DEVELOPMENT
70 LAMBETH STREET
NEW BEDFORD, MA 02745

SHEET 1 OF 3
OVERALL
DEFINITIVE SUBDIVISION PLAN

NEW BEDFORD, MA

PREPARED FOR
DPM DEVELOPMENT

REVISÉ: AUGUST 23, 2004
REVISÉ: AUGUST 31, 2004
REVISÉ: JUNE 17, 2005
REVISÉ: JULY 19, 2005
REVISÉ: SEPTEMBER 27, 2009

I HEREBY CERTIFY THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

Seal

DATE *11/6/05*



LOCUS INFORMATION:
 ASSESSOR'S MAP 136 LOTS 23 & 29
 OWNER/APPLICANT:
 DPM DEVELOPMENT
 70 LAMBERT STREET
 NEW BEDFORD, MA 02745

*"X" CONCRETE BOUND TO BE SET

FOR REGISTRY USE ONLY

APPROVAL UNDER THE
 THE SUBDIVISION CONTROL
 LAW IS REQUIRED
 NEW BEDFORD PLANNING BOARD

DATE: _____

*NO DETRIORATION AS TO COMPLIANCE WITH THE ZONING ORDINANCES REQUIREMENTS HAS BEEN MADE OR IS INTENDED BY THE ABOVE ENDORSEMENT.
 *SUBJECT TO A COVENANT TO BE RECORDED HEREWITH

CLERK OF THE CITY OF NEW BEDFORD HEREBY CERTIFY THAT THE NOTICE OF PUBLIC HEARING HAS BEEN RECORDED AND THE BOARD HAS BEEN RECEIVED AND NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

DATE _____ CITY CLERK _____

ZONING DISTRICT - RESIDENCE A
 MINIMUM LOT AREA = 8000 SQ. FT.
 MINIMUM FRONTAGE = 75'
 MINIMUM SIDE YARD = 12/8'
 MINIMUM REAR YARD = 12'-40'



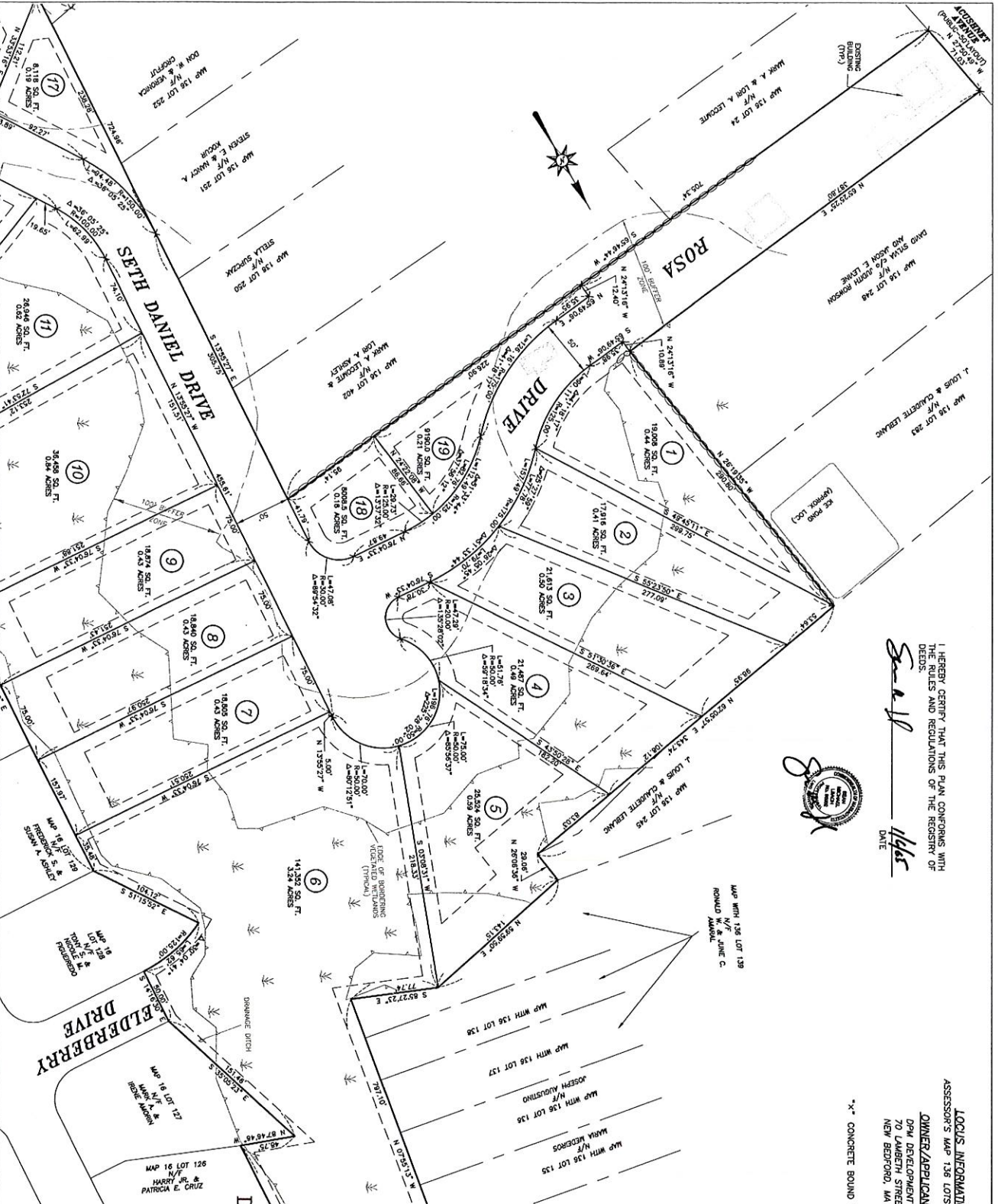
SHEET 2 OF 3 DEFINITIVE SUBDIVISION PLAN OF THE SETTLEMENT

IN
 NEW BEDFORD, MA

PREPARED FOR
 DPM DEVELOPMENT

SCALE: 1"=40'
 PREPARED BY
 SITTEC INC.
 12 WOODBINE
 CHASE
 NEW BEDFORD, MA 02745
 (508) 898-2100
 FAX (508) 298-7954

REVISIONS:
 MARCH 16, 2004
 REVISION: JULY 29, 2004
 REVISION: AUGUST 31, 2004
 REVISION: JUNE 17, 2005
 REVISION: SEPTEMBER 27, 2005



157-97

157-97

04/13/2017

FOR REGISTRY USE ONLY

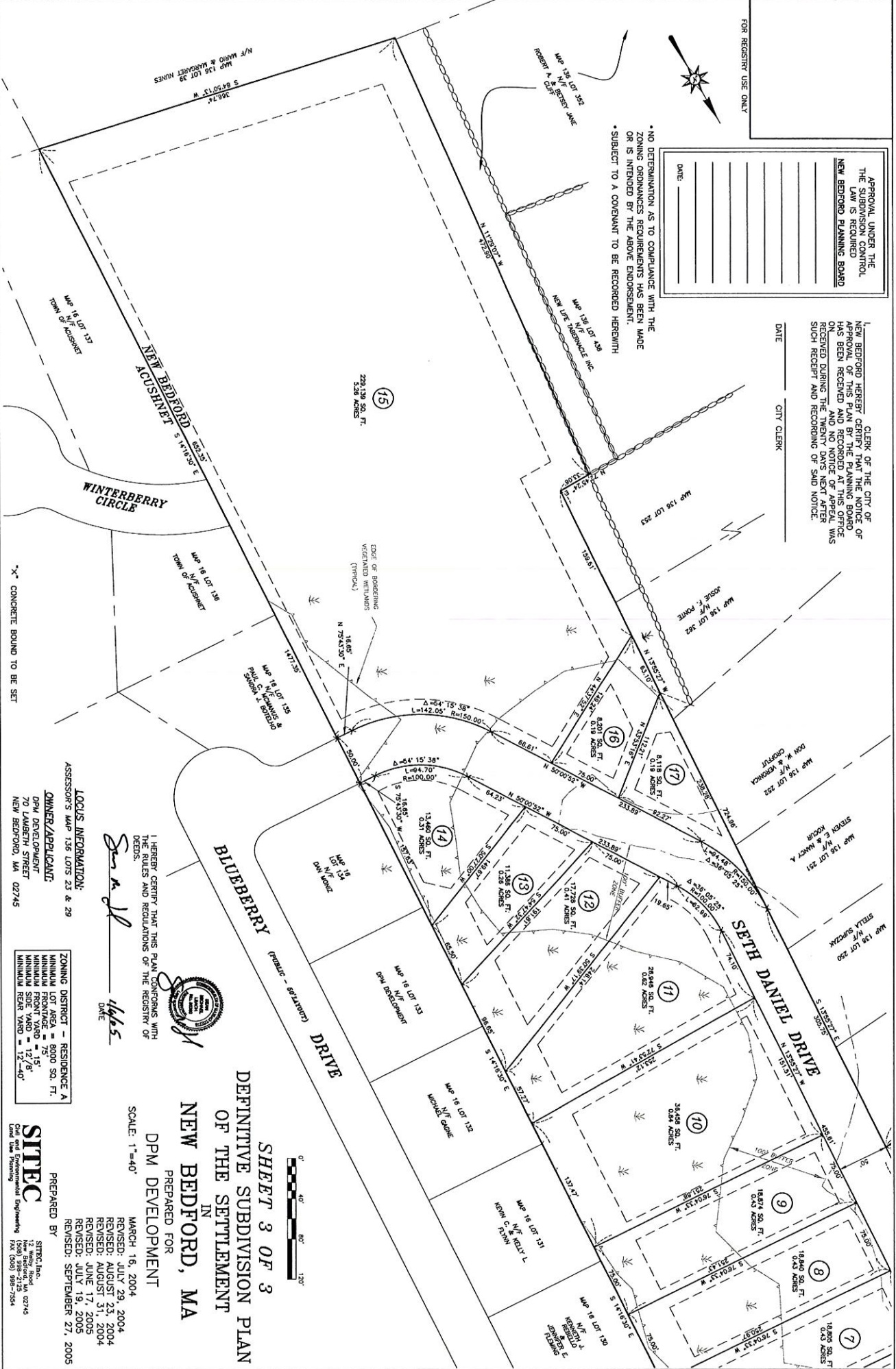
APPROVAL UNDER THE
THE SUBDIVISION CONTROL
LAW IS REQUIRED
NEW BEDFORD PLANNING BOARD

DATE: _____

CLERK OF THE CITY OF
NEW BEDFORD HEREBY CERTIFY THAT THE RECORD OF
APPROVAL OF THIS PLAN HAS BEEN RECEIVED AND NO NOTICE OF APPEAL WAS
RECEIVED DURING THE TWENTY DAYS NEXT AFTER
SUCH RECEIPT AND RECORDING OF SAID NOTICE.

DATE _____ CITY CLERK _____

• NO DETERMINATION AS TO COMPLIANCE WITH THE
ZONING ORDINANCES REQUIREMENTS HAS BEEN MADE
OR IS INTENDED BY THE ABOVE ENDORSEMENT.
• SUBJECT TO A COVENANT TO BE RECORDED HERewith



LOCUS INFORMATION:
ASSESSOR'S MAP 136 LOTS 23 & 29
OWNER/APPLICANT:
DPM DEVELOPMENT
70 LAMBERT STREET
NEW BEDFORD, MA 02745

ZONING DISTRICT - RESIDENCE A
MINIMUM LOT AREA = 8000 SQ. FT.
MINIMUM FRONT YARD = 75'-0"
MINIMUM SIDE YARD = 12'-0"
MINIMUM REAR YARD = 12'-0"

PREPARED BY
SITEC
12 Westwood Road
New Bedford, MA 02745
Tel: (508) 998-2125
Fax: (508) 998-7544

REVISIONS:
MARCH 16, 2004
REVISED: JULY 29, 2004
REVISED: AUGUST 23, 2004
REVISED: AUGUST 31, 2004
REVISED: JUNE 17, 2005
REVISED: JUNE 19, 2005
REVISED: SEPTEMBER 27, 2005

I HEREBY CERTIFY THAT THIS PLAN CONFORMS WITH
THE RULES AND REGULATIONS OF THE REGISTRY OF
DEEDS.
San H. H.
DATE: 11/16/05

DEFINITIVE SUBDIVISION PLAN
OF THE SETTLEMENT
IN
NEW BEDFORD, MA
PREPARED FOR
DPM DEVELOPMENT



04/13/2017

157-97

157-97

REFERENCE: PLAN BOOK
PAGE

157
97

BK 7967 PG 116
01/20/06 12:44 DOC. 1730
Bristol Co. S.D.

COVENANT

The undersigned, DPM Development Corp., hereinafter called the "Covenantor" having submitted to the City of New Bedford Planning Board a definitive plan for a subdivision of land, said plan being entitled "Overall Definitive Subdivision Plan of THE SETTLEMENT in New Bedford, MA, prepared for DPM Development by SITEC, Inc." hereby covenant and agree with the City of New Bedford Planning Board, having an address at 133 William Street, New Bedford, Massachusetts 02740, and the successors in office of said Board, pursuant to M.G.L. Chapter 41, Section 8ID, as amended, that:

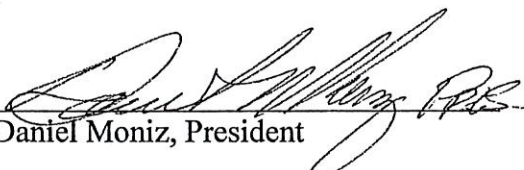
- (1) The covenantor is owner of record of the premises shown on said plan.
- (2) This covenant shall run with the land and be binding upon the executors, administrator, heirs and assigns of the covenantor and its successors in title to the premises shown on said plan.
- (3) The construction of ways and installation of municipal services shall be provided to serve any lot in accordance with the applicable rules and regulations of said Board before a certificate of occupancy is issued on such lot. Any succeeding owner of the premises shall be subject to the portion of this covenant that no certificate of occupancy shall be issued until such ways and services have been provided to serve such lots.
- (4) Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on subdivision plan or of all the lots not previously released by the Board of Survey without first providing such ways and services.
- (5) This covenant shall take effect upon approval of the plan.
- (6) Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

IN WITNESS WHEREOF, the said DPM Development Corp., by Daniel Moniz, Treasurer, has this day affixed its signed to these presents.

Date: January 20 , 2006

DPM Development Corp.

By:

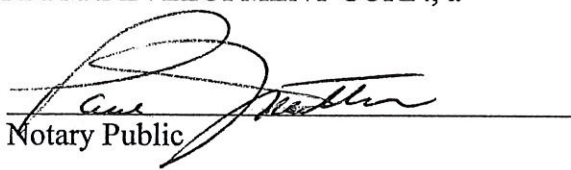

Daniel Moniz, President

COMMONWEALTH OF MASSACHUSETTS

Bristol ss.

January 20 , 2006

Then personally appeared the above-named Daniel Moniz, President, proved to me through satisfactory evidence of identification, which was a Massachusetts Drivers License, to be the person whose name is signed on the within document, and acknowledged the foregoing Instrument to be his free act and deed as President of DPM DEVELOPMENT CORP., a Massachusetts Corporation, before me


Notary Public

My commission expires: 9/17/10



City of New Bedford
MASSACHUSETTS

OFFICE OF THE CITY CLERK
133 WILLIAM STREET 02740-6182
TEL 508-979-1450 / FAX 508-991-6225

RITA D. ARRUDA
CITY CLERK

RITA O. SYLVIA
ASSISTANT COUNCIL CLERK

COPY

January 17, 2006

BK 7967 PG 115
01/20/06 12:43 DOC. 1729
Bristol Co. S.D.

REF: 157/97

TO WHOM IT MAY CONCERN

I hereby certify that the Form C Definitive Plan for The Settlement, which was submitted on August 22, 2005 has been approved due to the failure of the Planning Board to act and the approval resulting from such failure has become final.

Attest:

Rita D. Arruda
Rita D. Arruda
City Clerk

ATTACHMENT 4




CITY OF NEW BEDFORD MASSACHUSETTS

D.P.I. - ENGINEERING DIVISION
133 WILLIAM STREET, ROOM 303
NEW BEDFORD, MA 02740
Tel: (508) 979-1527
Fax: (508) 961-3043
TTY: (508) 979-1661



MEMORANDUM

TO: City of New Bedford Planning Board

FROM: Duarte M. Andrade, Acting City Engineer 

DATE: September 8, 2005

RE: The Settlement Subdivision – Revised Definitive Plans

The Department of Public Infrastructure's Engineering Division has reviewed the revised definitive plans for the proposed subdivision to be known as "The Settlement", and offers the following comments:

1. Waiver requests should be shown on the front sheet of the proposed plans. The Engineering Division feels that a waiver for a 30' wide pavement should be granted.
2. Bench mark should be transferred to a permanent structure (pole, hydrant, bound, etc.)
3. All driveways to be constructed with a 3 foot transition curb on both sides, and perpendicular to the street layout.
4. The section of Seth Daniel Drive within the Town of Acushnet needs approval by the Department of Public Works for the Town (roadway, drainage, water, sidewalks, etc.)
5. Need to apply for a revised sewer extension permit with the Department of Environmental Protection.
6. Revise wheelchair ramp locations at the intersection of Rosa Drive and Seth Daniel Drive (schedule meeting with the Engineering Division to discuss locations)
7. Show spots grades at cul-de-sac.
8. Sheet 2 of 7:
 - A. Station 3 + 50 – no connection basin to basin.
 - B. Adjust inverts for DMH at station 9 + 40.
 - C. Show proposed profile grades between stations 0 + 00 and 2 + 00.
 - D. Proposed profile shows 2 – 50 foot vertical curves. Short curves under 100 feet in length are difficult to build, vertical curves should have a minimum length of 100 feet.

9. Sheet 5 of 7: revise the following construction notes:

- I. 2" binder and 1 1/2" top courses
- K. Remove utility pole from note
- L. Remove cape cod berm and grass walk from notes

- 10. Determine the seasonal water table at the culvert crossing (12") on Seth Daniel Drive.
- 11. Show test pit data on plans.
- 12. Granite curbs inlets shall be installed at all proposed catch basin locations.
- 13. Minimum lot grading is shown on plans. All lots should drain into street or adequate drainage and erosion control measure should be put in place in accordance with Article VII, Section 4 of the New Bedford Subdivision Regulations.
- 14. House roof drains shall be connected to the proposed drainage system, cleanouts shall be provided as necessary to maintain the roof leaders.
- 15. Low pressure sewer systems and grinder pumps should meet City of New Bedford Specifications.
- 16. All the above mentioned comments could change pending the issuance of a superceding order of conditions from the Department of Environmental Protection to the Developer and the affect that it could have on the proposed design.

Cc: Planning Department
D.P.I.
Inspectional Services
Conservation Commission
Sitec, Inc.
D.P.M. Development



City of New Bedford

PLANNING BOARD

133 William Street

New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 Facsimile: (508) 979.1576

JONATHAN F. MITCHELL

MAYOR

**RELEASE OF COVENANT
PLANNING BOARD – CITY OF NEW BEDFORD, MA
May 10, 2017**

The undersigned, being a majority of the Planning Board of the City of New Bedford, Massachusetts, hereby certifies that the following lots are released from the restrictions as to sale specified in a Covenant dated January 20, 2006 and recorded in Bristol County (S.D.) Registry of Deeds, Book 7967/Page 116.

Lots are shown on the Plan entitled Definitive Subdivision Plan of The Settlement in New Bedford, MA prepared for DPM Development, dated March 16, 2004 as revised through September 27, 2005, by SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747 (formerly located at 12 Welby Road, New Bedford, MA 02745).

Recorded with said Covenant in Plan Book 157, Page 97 the enumerated lots are:

Lot 1 thru Lot 19, inclusive.

The name of the owner as shown on said plan is DPM Development and recorded by Quitclaim Deed in Bristol County (S.D.) Registry of Deeds in Book 7766, Page 3 on September 15, 2005. Ownership for **Lots 2, 4, 6, 8, 10, 12, 14 16 & 18** was conveyed to Moniz Properties, Inc., a Massachusetts Corporation, having a principal office of 70 Lambeth Street in New Bedford, MA 02745 by Quitclaim Deed on April 2, 2013 and recorded in Bristol County (S.D.) Registry of Deeds in Book 10731, Page 331.

The Plan was recorded by reason of failure of the Planning Board to act within time specific under certificate by City Clerk and recorded with said Covenant in Book 7967, Page 115.

The owner has further secured this obligation for the construction of ways and installation of municipal services for the subdivision by a deposit of money in the sum of four hundred, seventy-three thousand dollars (\$473, 000.00) with the Treasurer of the City of New Bedford.

A Building and Occupancy Permit are still required for each lot herein released.

Majority of the Planning Board of the City of New Bedford, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

Bristol County, ss.

_____ 20____

Then personally appeared _____, one of the above-named members of the Planning Board of the City of New Bedford, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board, before me,

Notary Public

My Commission expires



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford

Department of Planning, Housing & Community Development

133 William St, Room 303, New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 Facsimile: (508) 979.1576

PERFORMANCE BOND SECURED BY CASH DEPOSIT
PLANNING BOARD – CITY OF NEW BEDFORD, MA

May 10, 2017

Subdivision Name - The Settlement

Agreement made this date between the City of New Bedford and DPM Development Corp and Moniz Properties, Inc., hereinafter referred to as the "Applicant", whose address is 70 Lambeth Street, New Bedford, MA 02745 to secure constructions of ways and installation of municipal services in the subdivision of land shown on a plan entitled Definitive Subdivision Plan of The Settlement drawn by SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747 (formerly located at 12 Welby Road, New Bedford, MA 02745), dated March 16, 2004 as revised thru September 27, 2005, on land owned by DPM Development for land located in New Bedford, MA (Map 136, Lot 23 & 29) and showing nineteen (19) lots.

The Applicant hereby binds and obligates himself, his or its executors, administrators, devisees, successors and assigns to the City of New Bedford, Bristol County, acting through its Planning Board, in the sum of four hundred, seventy-three thousand dollars (\$473, 000.00), and has secured this obligation by depositing with the Treasurer of the City of New Bedford the above amount sum, to be deposited in a subdivision escrow account in the name of the City of New Bedford. The cash deposit will be placed in an interest bearing account compounded monthly at a rate which is based on current market conditions.

Said sum of money is to be used to insure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following:

1. The Subdivision Control Law, the City of New Bedford Code of Ordinances, and City of New Bedford Subdivision Rules and Regulations.

2. The Definitive Plan, that was recorded by reason of failure of the Planning Board to act within time specific under Certificate by City Clerk, and recorded with the Covenant in Bristol County (S.D.) Registry of Deeds in Book 7967, Page 115.
3. All conditions and agreements included in a Covenant duly recorded by the Applicant in the Bristol County (S.D.) Registry of Deeds Book 7967, Page 116.
4. Other Documents, specifying construction or installation to be completed: Memorandum from the Department of Public Infrastructure – Engineering Division Dated September 8, 2005 and all Conditions set forth by the City of New Bedford Conservation Commission.

This agreement shall remain in full force and effect until the Applicant has fully and satisfactorily performed all obligations or provides another method of securing performance as provided in Massachusetts General Law, Chapter 41, Section 81-U.

Upon completion by the Applicant of all obligations as specified herein, on or before May 10, 2019, or such later date as may be specified by vote of the Planning Board with written concurrence of the Applicant, the deposit of money, including all interest accrued thereon, shall be returned to the Applicant by the City of new Bedford and this agreement shall become void.

In the event the Applicant should fail to complete the construction of ways and installation of municipal services as specified within the time stipulated, the cash deposit may be applied in whole or in part by the Planning Board for the benefit of the City of New Bedford, to the extent of the reasonable cost to the City of New Bedford for completing such construction and installation. Any unused money and interest accrued on the deposit, which shall bear a direct and reasonable relationship to the expected cost including the effects of inflation, shall be returned to the applicant upon completion of the work by the City of New Bedford.

The City of New Bedford, acting by and through its Planning Board, with City Planner as Agent, hereby agrees to accept the deposit of money in the amount specified in this agreement as security

for the performance of the project. Any amendment to this agreement and/or to the aforesaid deposit of money shall be agreed upon in writing by all parties to this agreement.

Date

Jennifer Clarke, AICP, Acting City Planner
Agent for the Planning Board

COMMONWEALTH OF MASSACHUSETTS

Bristol County, SS _____, 2017

Then personally appeared before me the above named _____, stated as agent for the Planning Board, she is authorized to sign this document for said Planning Board and acknowledged the foregoing instrument to the Planning Board's free act and deed.

Signature of Notary Public
My commission expires:

CITY TREASURER

The applicant has deposited cash in the amount of
\$_____ with the City of New Bedford.

Signature of City Treasurer

APPLICANT

In witness whereof we hereunto set my/our hands and seal this on the ____ day of ____, 2017.

Signature of Owner

Signature of Owner

COMMONWEALTH OF MASSACHUSETTS

Bristol County, SS

_____, 2017

Then personally appeared before me the above named _____, stated as Applicant s/he is authorized to sign this document and acknowledged the foregoing instrument his/her free act and deed.

Signature of Notary Public

My commission expires:
